

conveyance which is fraudulent as to creditors, the trustee may maintain trover without returning the money so paid. Contract among creditors not to institute legal proceedings during a certain period pending an investigation, upheld. *Gardner v. Lewis*, 7 Gill, 392.

The insolvency of the holder of a note or bill of exchange passes the title thereto to his trustee. *Somerville v. Brown*, 5 Gill, 425.

Funds of insolvent in hands of a receiver in equity vest in insolvent trustee from time of his appointment. *Glenn v. Boston Glass Co.*, 7 Md. 295.

The right to a trade-mark, not personal, but which denotes the place where the goods are manufactured, passes to the assignee under bankrupt or insolvent laws. *Wilmer v. Thomas*, 74 Md. 491.

Though the insolvent has made an absolute transfer of property in the nature of a trust, such property must be administered by insolvent trustee. *Bank of Westminster v. Whyte*, 3 Md. Ch. 511.

Insolvency of buyer does not revoke a purchase of goods made prior to insolvency. The seller has his right of stoppage *in transitu*, but if the goods are once delivered, title vests in assignee. The same principle applies to an assignment for benefit of creditors. *McElroy v. Seery*, 61 Md. 398.

For a case where property was held to have passed to an insolvent trustee subject to liens, see *Repp v. Repp*, 12 G. & J. 352.

Insolvent trustee has no power to sell without an order of court. Where an equitable title is vested in an insolvent, G. & B. holding the legal title as security for certain claims, insolvent trustee can only sell equitable title. If this is not advantageous, trustee may institute proceedings in equity against G. & B. Where trustees are the same in two insolvent cases, they cannot file a bond in one of the cases conditioned upon a performance of their duties in both cases. Each case must be conducted separately, though property owned by two insolvents jointly may be sold at same time. *Gable v. Scott*, 56 Md. 181.

Where a claim is filed and allowed in the audit and there are no exceptions, it is duty of trustee to pay it. The creditors may litigate *inter sese*, but the law does not impose this duty upon trustee. *Walsh v. Boyle*, 30 Md. 267.

Where a sale of mortgaged premises is made and reported prior to application of mortgagor in insolvency, no title to mortgaged premises passes to insolvent trustee, and sale is valid. *White v. Malcolm*, 15 Md. 543.

Powers and duties of trustee. His title relates back to time of filing of petition. *Riley v. Carter*, 76 Md. 605; *Gottschalk v. Smith*, 74 Md. 563; *Mackubin v. Boarnman*, 54 Md. 390; *Grove v. Reutch*, 26 Md. 378; *Glenn v. Gill*, 2 Md. 18; *Alexander v. Ghiseln*, 5 Gill, 179; *Hall v. McPherson*, 3 Bl. 537.

### **Jurisdiction.**

Insolvent courts have no jurisdiction to compel executors and administrators of a deceased trustee to account in such court. The insolvent court may, however, proceed against trustee for default or neglect of duty. Although trustee may proceed in other forums to get in assets of estate, such estate must be distributed in insolvent court. The insolvent court is a court of limited jurisdiction, and its acts must be shown to be within its powers. *Purviance v. Glenn*, 8 Md. 206.

An equity court has no jurisdiction to remove or appoint an insolvent trustee, though it will exercise ancillary jurisdiction for prevention of injury, until insolvent court can take hold. *Powles v. Dilley*, 2 Md. Ch. 127; *Powles v. Dilley*, 9 Gill, 239.

### **Provisional trustee.**

Under act of 1829, ch. 208, sec. 3, the provisional trustee has as full power to sue for and recover property fraudulently conveyed, as the permanent trustee has. *Teackle v. Gibson*, 8 Md. 87.

The bond of permanent trustee not having been approved, the temporary trustee is still in office, and where before the petition in insolvency creditors have attacked conveyances of the insolvent as fraudulent, the latter trustee may be made a defendant, and upon the setting aside of the conveyance the property vests in him. *Haugh v. Maulsby*, 68 Md. 426.

This section and sec. 23 compared as to the persons to whom they are applicable, and as to the necessity for a deed from the debtor to the preliminary trustee. *Clark v. Manko*, 80 Md. 82.